

**CITY OF MILPITAS
APPROVED**

PLANNING COMMISSION MINUTES

July 13, 2005

**I.
PLEDGE OF
ALLEGIANCE**

Chair Lalwani called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.

**II.
ROLL CALL**

Present: Azevedo, Galang, Garcia, Lalwani, Mandal, Mohsin and Williams
Absent: None
Staff: Carrington, Heyden, Pereira and Rodriguez

**III
PUBLIC FORUM**

Chair Lalwani invited members of the audience to address the Commission on any topic not on the agenda, noting that no response is required from the staff or Commission, but that the Commission may choose to agendaize the matter for a future meeting.

Frank DeSchmidt, Chamber of Commerce, invited the public to attend a mixer hosted by the Chamber on Wednesday, July 20th at the Outback Steakhouse in Milpitas at 5 p.m.

**IV.
APPROVAL OF MINUTES
June 22, 2005**

Chair Lalwani called for approval of the minutes of the Planning Commission meeting of June 22, 2005.

Staff had no changes.

Motion to approve the minutes as submitted.

M/S: Mandal/Williams

AYES: 7

NOES: 0

**V.
ANNOUNCEMENTS**

Staff reported at the last meeting that the Commission does not need to keep track of their calendars, however, they do need to keep track of their event calendars. At the next Commission meeting, Information Services will have a short training session on how to do that online.

Vice Chair Garcia announced that all the Commissioners received an e-mail from Mr. Paul Bundt with the Christ Community church project who invited the Commissioners to attend an informational meeting. He asked staff if it is appropriate for the Commission to attend the meeting.

Tambri Heyden, Acting Planning and Neighborhood Services Director, asked Vice Chair Garcia to forward her the e-mail so that she can get advice from the City Attorney.

Chair Lalwani announced that on Saturday, July 16th through the Milpitas Democratic Club, Senator Liz Figueroa and Assemblyman Al Torrico will be speaking at the Milpitas Library and the event is free. Also, on Monday, July 18th, through the Rotary Club, Santa Clara Chief Assistant District Karyn Sinunu will be speaking at a luncheon.

Commissioner Williams asked staff if Information Services could come at a future meeting and do a presentation about digitizing Planning Commission documents and also about where the City stands with today's technology. Ms. Heyden noted that Information Services could do a presentation at the next meeting.

**VI.
CONFLICT
OF INTEREST**

Chair Lalwani asked if the Commission has any conflict of interest on tonight's agenda.
There were no Commissioners that identified a conflict of interest.

**VII.
APPROVAL OF
AGENDA**

Chair Lalwani called for approval of the agenda.
There were no changes from staff.

Motion to approve the agenda.

M/S: Williams/Azevedo

AYES: 7

NOES: 0

**VIII.
ELECTION OF THE
OFFICERS**

Chair Lalwani turned the gavel over to Tambri Heyden, Secretary of the Planning Commission, who opened the nominations for Planning Commissioner Chair.

Chair Lalwani nominated Vice Chair Garcia for Chair.

Vice Chair Garcia accepted the nomination.

Commissioner Azevedo nominated Commissioner Williams for Chair.

Commissioner Williams accepted the nomination.

Ms. Heyden took a vote for each nominee and Commissioner Williams was elected Planning Commission Chair with 4 votes over 3 votes cast for Vice Chair Garcia.

Ms. Heyden opened nominations for Planning Commission Vice Chair.

Commissioner Azevedo nominated Commissioner Galang for Vice Chair.

Commissioner Galang accepted the nomination.

Commissioner Lalwani nominated Commissioner Mohsin for Vice Chair.

Commissioner Mohsin accepted the nomination.

Ms. Heyden took a vote for each nominee and Commissioner Galang was elected Planning Commission Vice Chair with 4 votes over 3 votes cast for Commissioner Mohsin.

**IX. CONSENT
CALENDAR**

There were no items on the consent calendar.

X. PUBLIC HEARING

**1. "S" ZONE APPROVAL
AMENDMENT NO.
SA2005-33, USE PERMIT
AMENDMENT NO.
UA2005-10 AND MAJOR
TENTATIVE TRACT
MAP NO. MA2005-3**

Staci Pereira, Assistant Planner, presented a request to amend a previously approved mixed use development to reduce the number of residential condominium units from 96 to 93, modify the Density Bonus approval to exceed the maximum density by 4 units, site and architectural modifications and to not provide 28 required parking spaces at 230 North Main Street. Ms. Pereira recommended to the City Council approval of the amended Density Bonus, "S" Zone Approval Amendment No. SA2005-33, Use Permit Amendment No. UA2005-10 and Major Tentative Tract Map No. MA2005-3.

Ms. Pereira also recommended the deletion of condition no. 69 (vibration) and the following modifications to condition nos. 56 and 63:

56. *UTILITIES: Prior to building occupancy permit issuance, the developer shall underground all existing wires on the utility poles number 2 to 5, and remove poles number 3, 4 and 5, as shown on the Engineering Services Exhibit "S", dated 6/22/2004. All proposed utilities within the proposed development shall also be undergrounded. Within 60 days of City Council approval of this project, the developer shall make an application with PG&E for its service connections to this site. The applicant is also required to design, construct and coordinate its dry utilities (phone, electric, gas, cable, etc.) construction with Library project and other affected agencies including but not limited to PG&E. If mutually agreed, the City may underground the overhead wires between poles 2 and 5 and the developer is required to reimburse the City for the actual cost of this undergrounding. The undergrounding of overhead utilities is not covered by the fees described in Condition No. 52. (E)*

63. *UTILITIES: In accordance with Chapter 5, Title VIII (Ord. No. 238) of Milpitas Municipal Code, for new and/or rehabilitated landscaping 2500 square feet or larger the developer shall.*

a) Comply with all requirements of the City of Milpitas Water Efficient Ordinance (Ord. No. 238). Two sets of landscape documentation package shall be submitted by the developer or the landscape architect to the Building Division with the building permit plan check submittal. Approval from the Land Development Section of the Engineering Division is required prior to building permit issuance, and submittal of the Certificate of Substantial Completion is required prior to final occupancy inspection. (E)

Commissioner Garcia asked what type of retail will be going into the building. Ms. Pereira noted that staff has a condition stating that regardless of the retail use, it cannot be a tallow generating use because of the way the trash is situated on site. The types that are intended on being there are more community-oriented like a café that has pre-packaged food or a cleaners or small office. She also noted that there will only be three tenant spaces.

Commissioner Garcia noted that the addition of the fourth floor increases the height of what it was before and the apartments facing the courtyard are pretty dark. Ms. Pereira explained that the original approval removed the three units on the south elevation and that brought it down to a three-story level. This also allowed light into the courtyard and into the units that have their windows face the interior courtyard. Staff has worked with the applicant to allow the fourth floor but mitigating the shade in the courtyard and the units by adding light tunnels and skylights in the two units that are closest to the south elevation as well as create a flat roof on that elevation rather than a peak. Both of these approaches have decreased the amount of shading and darkness that those units in the courtyard will experience.

Commissioner Garcia noted some of the units may not get any sunlight all day long during the winter. Ms. Pereira clarified that there are approximately three or four units that have their windows that face the courtyard and all of those units are getting other forms of natural light. All the other units that may get shade have windows on the opposite side either facing the street or the railroad that allow natural light in constantly.

Commissioner Garcia pointed out that there is no parking on Weller Lane because of the library. Ms. Pereira clarified that the east side of Weller Lane has been vacated and will no longer be a public roadway. It will be a driveway to access the library garage only and the west side of Weller Lanes across Main Street will allow parking.

Commissioner Garcia felt that a reduction of 28 slots is pretty substantial especially for guest parking. He also asked staff what is the timing of the project.

Ms. Heyden replied that she doesn't know for certain, however, in discussing this with the applicant, it appears that the Apton project will be first initiated, but the library project is not that far behind. She noted that the performance schedule in the regulatory agreements shows a lot of coordination with construction schedules and could cause partial closing of Main street and staging areas. She noted that the project is good for approval for 18 months and there is uncertainty of who will go first.

Commissioner Garcia said that if he was a resident living in the area, he would be concerned about construction noise.

Commissioner Lalwani asked staff if the minor changes were brought forward by the applicant or the City. Ms. Pereira explained that the changes were proposed by the applicant and the changes don't change the overall design of the building. She explained that the additional tower on the northwest corner enhances the building and helps anchor the northwest corner of the building. The building still provides 3,000 square feet of retail that anchors the corner immediately adjacent to the library so the site and architectural changes benefit the building and the overall development and the reduction in units and the other minor modifications don't change much.

Commissioner Lalwani asked if the applicant is okay with all of the conditions and Ms. Pereira said yes.

Commissioner Mandal asked why the vibration study condition was deleted and how does staff plan on mitigating vibration issues caused by passing trains. Ms. Pereira explained that the project is not located within the 50 feet that the state Cal Trans standard has identified as being the range where vibrations from a passing train going at its highest speed can be felt or damage the building. Staff felt that even if the vibration study were revised, it wouldn't reveal any new information.

Commissioner Williams was concerned about all the activities that will be taking place at the same time. He asked staff if there will be a program in place to notify residents of possible traffic and construction concerns.

Ms. Heyden explained that she is part of an internal midtown project team that meets weekly and the group has been projecting the kinds of things that need to be done over the next few years in relation to the library project, mixed use project, county health clinic, senior housing project, and two parking garages. Staff hasn't concluded whether Main street will be closed, but is projecting what needs to be done. She is not sure of the exact form of notification, but is certain there will be plenty of notices well in advance because it will be a significant impact.

Chair Williams invited the applicant to speak.

Kurt Anderson, Architect, representing the Applicant at 12201 Saratoga-Sunnyvale Rd. in Saratoga, commented on condition no. 53 that reads below. He noted that he would like to go on record that the applicant is working with engineering staff in regards to working on the storm line and getting technical things worked out that might be minor modifications moving forward. Other than that, the applicant agrees with all the conditions of approval.

53. PUBLIC IMPROVEMENTS. Prior to any building permit issuance, the developer shall obtain design approval and provide a bond for all necessary public improvements along N. Main Street and Railroad Court, including but not limited to curb and gutter, pavement, sidewalk, undergrounding of existing overhead utilities, street tree planting, signage and striping, bus stops, street lights, fire hydrants, storm drain, sewer and water services, and street furniture improvements such as benches, pedestrian lighting, bike shelter/rack, tree well grates, and garbage receptacles along N. Main Street, and Railroad Avenue, as further shown on Engineering Services Exhibit "S", dated 6/22/2004. The developer shall also design and construct all improvements north of the curb and gutter along Weller, including the Weller Lane north curb and Gutter. The applicant shall construct subject improvements prior to building occupancy permit issuance. These required improvements shall comply with the City's Development standards and Design guidelines and Streetscape plans approved for Milpitas Midtown Specific Plan. Plans for all public improvements shall be prepared on Mylar (24"x36" sheets) with City Standard Title Block and submit a digital format of the Record Drawings (AutoCAD format is preferred) upon completion of improvements. To aid in project coordination, all maps, improvement plans, and other construction documents shall use Vertical Control that is based on NGVD 29 and Horizontal Control based on NAD83, and utilize the same Basis of Bearing of the maps and documents prepared for the City's library project. The developer shall also execute a public improvement agreement, the performance of which shall be secured in an amount equal to 100% of the City Engineer's estimate of the construction cost for faithful performance and 100% of the City Engineer's estimate of the construction cost for labor & materials. (E)

Chair Williams opened the public hearing.

There were no speakers from the audience.

Close the public hearing

Motion to close the public hearing.

M/S: Lalwani/Mohsin

AYES: 7

NOES: 0

Motion to approve "S" Zone Approval Amendment No. SA2005-33, Use Permit Amendment No. UA2005-10 and Major Tentative Tract Map NO. MA2005-3 with all the special conditions and recommendations in the staff report as well as modifications to conditions Nos. 56 and 63.

M/S: Lalwani/Mandal

AYES: 7

NOES: 0

**XI.
ADJOURNMENT**

The meeting was adjourned at 7:38 p.m. to the next regular meeting of July 27, 2005.

Respectfully Submitted,

Tambri Heyden
Acting Planning and Neighborhood
Services Director

Veronica Rodriguez
Recording Secretary